

To: Jill M. Pietrini(trademarksCC@sheppardmullin.com)
Subject: U.S. Trademark Application Serial No. 90324250 - NINA-SYMONE - 30DR-166333
Sent: November 10, 2021 11:31:13 AM EST
Sent As: tmng.notices@uspto.gov

Attachments

**United States Patent and Trademark Office (USPTO)
Office Action (Official Letter) About Applicant's Trademark Application**

U.S. Application Serial No. 90324250

Mark: NINA-SYMONE

Correspondence Address:

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Applicant: Smith, James Todd

Reference/Docket No. 30DR-166333

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NONFINAL OFFICE ACTION

The USPTO must receive applicant's response to this letter within six months of the issue date below or the application will be [abandoned](#). Respond using the Trademark Electronic Application System (TEAS). A link to the appropriate TEAS response form appears at the end of this Office action.

Issue date: November 10, 2021

This file has been pulled back from publication because, upon further review, the examining attorney failed to require a name/consent statement of the individual named in the mark. Therefore, this new requirement is issued in this NON-FINAL Action for the reasons set forth below. The previous Section 2(a) refusal is withdrawn at this time. The Office apologizes for any inconvenience.

NAME OF INDIVIDUAL -- CLARIFICATION REQUIRED

Applicant must clarify whether the name NINA-SYMONE in the mark identifies a particular living individual. *See* 37 C.F.R. §2.61(b); TMEP §§813, 1206.03. In this case, the application neither specifies whether the name in the mark identifies a particular living individual nor includes a written consent. *See* TMEP §§813.01(a)-(b), 1206.04(a), 1206.05.

To register a mark that consists of or comprises the name of a particular living individual, including a first name, pseudonym, stage name, or nickname, an applicant must provide a written consent personally signed by the named individual. 15 U.S.C. §1052(c); TMEP §§813, 1206.04(a).

Accordingly, if the name in the mark does not identify a particular living individual, applicant must submit a statement to that effect (e.g., “The name shown in the mark does not identify a particular living individual.”).

However, if the name in the mark does identify a particular living individual, applicant must submit both of the following:

(1) The following **statement**: “The name(s) shown in the mark identifies a living individual(s) whose consent(s) to register is made of record.” If the name is a pseudonym, stage name, or nickname, applicant must provide the following statement: “NINA-SYMONE identifies Nina Simone Smith, a living individual whose consent is of record.”

(2) **A written consent**, personally signed by the named individual(s), as follows: “I, Nina Simone Smith, consent to the use and registration of my name, NINA-SYMONE, as a trademark and/or service mark with the USPTO.”

For an overview of the requirements for names appearing in marks, and instructions on how to satisfy this requirement using the online Trademark Electronic Application System (TEAS) response form, see the [Name/Portrait/Signature of Particular Living Individual in Mark webpage](#).

Failure to comply with a request for information is grounds for refusing registration. *In re Harley*, 119 USPQ2d 1755, 1757-58 (TTAB 2016); TMEP §814.

RESPONSE GUIDELINES

Please call or email the assigned trademark examining attorney with questions about this Office action. Although an examining attorney cannot provide legal advice, the examining attorney can provide additional explanation about the refusal(s) and/or requirement(s) in this Office action. *See* TMEP §§705.02, 709.06.

The USPTO does not accept emails as responses to Office actions; however, emails can be used for informal communications and are included in the application record. *See* 37 C.F.R. §§2.62(c), 2.191; TMEP §§304.01-.02, 709.04-.05.

Note: An applicant may check the status of or view documents filed in an application or registration using the [Trademark Status and Document Retrieval \(TSDR\)](#) system. Enter the application serial number or registration number and click on “Status” or “Documents.”

If applicant has technical questions about the TEAS response to Office action form, applicant can review the electronic filing tips available online at http://www.uspto.gov/trademarks/teas/e_filing_tips.jsp and e-mail technical questions to TEAS@uspto.gov.

How to respond. [Click to file a response to this nonfinal Office action.](#)

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RESPONSE GUIDANCE

- **Missing the response deadline to this letter will cause the application to [abandon](#).** The response must be received by the USPTO before midnight **Eastern Time** of the last day of the response period. TEAS maintenance or [unforeseen circumstances](#) could affect an applicant's ability to timely respond.
- **[Responses signed by an unauthorized party](#)** are not accepted and can **cause the application to [abandon](#)**. If applicant does not have an attorney, the response must be signed by the individual applicant, all joint applicants, or someone with [legal authority to bind a juristic applicant](#). If applicant has an attorney, the response must be signed by the attorney.
- If needed, **find [contact information for the supervisor](#)** of the office or unit listed in the signature block.

United States Patent and Trademark Office (USPTO)

USPTO OFFICIAL NOTICE

Office Action (Official Letter) has issued
on November 10, 2021 for
U.S. Trademark Application Serial No. 90324250

Your trademark application has been reviewed by a trademark examining attorney. As part of that review, the assigned attorney has issued an official letter that you must respond to by the specified deadline or your application will be [abandoned](#). Please follow the steps below.

- (1) [Read the official letter](#).
- (2) **Direct questions** about the contents of the Office action to the assigned attorney below.

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Direct questions about navigating USPTO electronic forms, the USPTO [website](#), the application process, the status of your application, and/or whether there are outstanding deadlines or documents related to your file to the [Trademark Assistance Center \(TAC\)](#).

- (3) **Respond within 6 months** (or earlier, if required in the Office action) from November 10, 2021, using the Trademark Electronic Application System (TEAS). The response must be received by the USPTO before midnight **Eastern Time** of the last day of the response period. See the Office action for more information about how to respond.

GENERAL GUIDANCE

- [Check the status of your application periodically](#) in the [Trademark Status & Document Retrieval \(TSDR\) database](#) to avoid missing critical deadlines.
- [Update your correspondence email address](#), if needed, to ensure you receive important USPTO notices about your application.
- [Beware of misleading notices sent by private companies about your application.](#)

Private companies **not** associated with the USPTO often use public information provided in USPTO trademark applications to mail and email trademark-related offers and notices - most of which require fees. These companies often have names similar to the USPTO. All **official USPTO correspondence** will only be **emailed from the domain "@uspto.gov"**.